



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB6273

Introduced 2/11/2016, by Rep. Kelly Burke

SYNOPSIS AS INTRODUCED:

750 ILCS 46/103
750 ILCS 46/Art. 7 heading
750 ILCS 46/701 new
750 ILCS 46/702 new
750 ILCS 46/703 new
750 ILCS 46/704 new
750 ILCS 46/705 new
750 ILCS 46/706 new
750 ILCS 46/707 new
750 ILCS 46/708 new
750 ILCS 46/709 new
750 ILCS 40/Act rep.

Amends the Illinois Parentage Act of 2015. Defines "assisted reproduction" and "donor". Creates the Article concerning children of assisted reproduction. Adds provisions concerning: the scope of the Article; parental status of donor; parentage of a child of assisted reproduction; withdrawal of consent of an intended parent or donor; parental status of a deceased individual; inheritance rights of a posthumous child; the burden of proof; limitations on proceedings to declare the non-existence of the parent-child relationship; and establishing parentage in the context of a gestational surrogacy arrangement. Repeals the Illinois Parentage Act.

LRB099 20120 HEP 44552 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Parentage Act of 2015 is amended by
5 changing Section 103 and the heading of Article 7 and by adding
6 Sections 701, 702, 703, 704, 705, 706, 707, 708, and 709 as
7 follows:

8 (750 ILCS 46/103)

9 Sec. 103. Definitions. In this Act:

10 (a) "Acknowledged father" means a man who has established a
11 father-child relationship under Article 3.

12 (b) "Adjudicated father" means a man who has been
13 adjudicated by a court of competent jurisdiction, or as
14 authorized under Article X of the Illinois Public Aid Code, to
15 be the father of a child.

16 (c) "Alleged father" means a man who alleges himself to be,
17 or is alleged to be, the biological father or a possible
18 biological father of a child, but whose paternity has not been
19 established. The term does not include:

20 (1) a presumed parent or acknowledged father; or

21 (2) a man whose parental rights have been terminated or
22 declared not to exist.

23 (d) "Assisted reproduction" means a method of achieving a

1 pregnancy though an artificial insemination or an embryo
2 transfer and includes gamete and embryo donation. "Assisted
3 reproduction" does not include any pregnancy achieved through
4 sexual intercourse ~~(Reserved)~~.

5 (e) "Child" means an individual of any age whose parentage
6 may be established under this Act.

7 (f) "Combined paternity index" means the likelihood of
8 paternity calculated by computing the ratio between:

9 (1) the likelihood that the tested man is the father,
10 based on the genetic markers of the tested man, mother, and
11 child, conditioned on the hypothesis that the tested man is
12 the father of the child; and

13 (2) the likelihood that the tested man is not the
14 father, based on the genetic markers of the tested man,
15 mother, and child, conditioned on the hypothesis that the
16 tested man is not the father of the child and that the
17 father is of the same ethnic or racial group as the tested
18 man.

19 (g) "Commence" means to file the initial pleading seeking
20 an adjudication of parentage in the circuit court of this
21 State.

22 (h) "Determination of parentage" means the establishment
23 of the parent-child relationship by the signing of a voluntary
24 acknowledgment under Article 3 of this Act or adjudication by
25 the court or as authorized under Article X of the Illinois
26 Public Aid Code.

1 (i) "Donor" means an individual who participates in an
2 assisted reproductive technology arrangement by providing
3 gametes and relinquishes all rights and responsibilities to the
4 gametes so that another individual or individuals may become
5 the legal parent or parents of any resulting child. "Donor"
6 does not include a spouse in any assisted reproductive
7 technology arrangement in which his or her spouse will parent
8 any resulting child ~~(Reserved)~~.

9 (j) "Ethnic or racial group" means, for purposes of genetic
10 testing, a recognized group that an individual identifies as
11 all or part of the individual's ancestry or that is so
12 identified by other information.

13 (k) "Gamete" means either a sperm or an egg.

14 (l) "Genetic testing" means an analysis of genetic markers
15 to exclude or identify a man as the father or a woman as the
16 mother of a child as provided in Article 4 of this Act.

17 (m) "Gestational mother" means an adult woman who gives
18 birth to a child pursuant to the terms of a valid gestational
19 surrogacy contract.

20 (n) "Parent" means an individual who has established a
21 parent-child relationship under Section 201 of this Act.

22 (o) "Parent-child relationship" means the legal
23 relationship between a child and a parent of the child.

24 (p) "Presumed parent" means an individual who, by operation
25 of law under Section 204 of this Act, is recognized as the
26 parent of a child until that status is rebutted or confirmed in

1 a judicial or administrative proceeding.

2 (q) "Probability of paternity" means the measure, for the
3 ethnic or racial group to which the alleged father belongs, of
4 the probability that the man in question is the father of the
5 child, compared with a random, unrelated man of the same ethnic
6 or racial group, expressed as a percentage incorporating the
7 combined paternity index and a prior probability.

8 (r) "Record" means information that is inscribed on a
9 tangible medium or that is stored in an electronic or other
10 medium and is retrievable in perceivable form.

11 (s) "Signatory" means an individual who authenticates a
12 record and is bound by its terms.

13 (t) "State" means a state of the United States, the
14 District of Columbia, Puerto Rico, the United States Virgin
15 Islands, or any territory or insular possession subject to the
16 jurisdiction of the United States.

17 (u) "Substantially similar legal relationship" means a
18 relationship recognized in this State under Section 60 of the
19 Illinois Religious Freedom Protection and Civil Union Act.

20 (v) "Support-enforcement agency" means a public official
21 or agency authorized to seek:

22 (1) enforcement of support orders or laws relating to
23 the duty of support;

24 (2) establishment or modification of child support;

25 (3) determination of parentage; or

26 (4) location of child-support obligors and their

1 income and assets.

2 (Source: P.A. 99-85, eff. 1-1-16.)

3 (750 ILCS 46/Art. 7 heading)

4 ARTICLE 7. CHILD OF ASSISTED REPRODUCTION ~~(RESERVED)~~

5 (Source: P.A. 99-85, eff. 1-1-16.)

6 (750 ILCS 46/701 new)

7 Sec. 701. Scope of Article. Except as described in this
8 Article, this Article does not apply to the birth of a child
9 conceived by means of sexual intercourse or a child born as a
10 result of a valid gestational surrogacy arrangement meeting the
11 requirements of the Gestational Surrogacy Act.

12 (750 ILCS 46/702 new)

13 Sec. 702. Parental status of donor. Except as provided in
14 this Act, a donor is not a parent of a child conceived by means
15 of assisted reproduction.

16 (750 ILCS 46/703 new)

17 Sec. 703. Parentage of child of assisted reproduction.

18 (a) Any individual who is an intended parent as defined by
19 this Act is the legal parent of any resulting child. If the
20 donor and the intended parent have been represented by
21 independent counsel and entered into a written legal agreement
22 in which the donor relinquishes all rights and responsibilities

1 to any resulting child, the intended parent is the parent of
2 the child. An agreement under this subsection shall be entered
3 into prior to any insemination or embryo transfer.

4 (b) If a person makes an anonymous gamete donation without
5 a designated intended parent at the time of the gamete
6 donation, the intended parent is the parent of any resulting
7 child if the anonymous donor relinquished his or her parental
8 rights in writing at the time of donation. The written
9 relinquishment shall be directed to the entity to which the
10 donor donated his or her gametes.

11 (c) An intended parent may seek a court order confirming
12 the existence of a parent-child relationship prior to or after
13 the birth of a child based on compliance with subsection (a) or
14 (b) of this Section.

15 (d) If the requirements of subsection (a) of this Section
16 are not met, or subsection (b) of this Section is found by a
17 court to be inapplicable, a court of competent jurisdiction
18 shall determine parentage based on evidence of the parties'
19 intent at the time of donation.

20 (750 ILCS 46/704 new)

21 Sec. 704. Withdrawal of consent of intended parent or
22 donor. An intended parent or donor may withdraw consent to use
23 his or her gametes in a writing or legal pleading with notice
24 to the other participants. An intended parent who withdraws
25 consent under this Section prior to the insemination or embryo

1 transfer is not a parent of any resulting child. If a donor
2 withdraws consent to his or her donation prior to the
3 insemination or the combination of gametes, the intended parent
4 is not the parent of any resulting child.

5 (750 ILCS 46/705 new)

6 Sec. 705. Parental status of deceased individual. If an
7 individual consents in a writing to be a parent of any child
8 born of his or her gametes posthumously, and dies before the
9 insemination of the individual's gametes or embryo transfer,
10 the deceased individual is a parent of any resulting child born
11 within 36 months of the death of the deceased individual.

12 (750 ILCS 46/706 new)

13 Sec. 706. Inheritance rights of posthumous child.
14 Notwithstanding Section 705, the rights of a posthumous child
15 to an inheritance or to property under an instrument shall be
16 governed by the provisions of the Probate Act of 1975.

17 (750 ILCS 46/707 new)

18 Sec. 707. Burden of proof. Parentage established under
19 Section 703, a withdrawal of consent under Section 704, or a
20 proceeding to declare the non-existence of the parent-child
21 relationship under Section 708 of this Act must be proven by
22 clear and convincing evidence.

1 (750 ILCS 46/708 new)

2 Sec. 708. Limitation on proceedings to declare the
3 non-existence of the parent-child relationship. An action to
4 declare the non-existence of the parent-child relationship
5 under this Article shall be barred if brought more than 2 years
6 following the birth of the child.

7 (750 ILCS 46/709 new)

8 Sec. 709. Establishment of parentage; requirements of
9 Gestational Surrogacy Act.

10 (a) In the event of gestational surrogacy, in addition to
11 the requirements of the Gestational Surrogacy Act, a
12 parent-child relationship is established between a person and a
13 child if all of the following conditions are met prior to the
14 birth of the child:

15 (1) The gestational surrogate certifies that she did
16 not provide a gamete for the child, and that she is
17 carrying the child for the intended parents.

18 (2) The spouse, if any, of the gestational surrogate
19 certifies that he or she did not provide a gamete for the
20 child.

21 (3) Each intended parent certifies that the child being
22 carried by the gestational surrogate was conceived using at
23 least one of the intended parents' gametes.

24 (4) A physician certifies that the child being carried
25 by the gestational surrogate was conceived using the gamete

1 or gametes of at least one of the intended parents, and
2 that neither the gestational surrogate nor the gestational
3 surrogate's spouse, if any, provided gametes for the child
4 being carried by the gestational surrogate.

5 (5) The attorneys for the intended parents and the
6 gestational surrogate each certify that the parties
7 entered into a gestational surrogacy agreement intended to
8 satisfy the requirements of the Gestational Surrogacy Act.

9 (b) All certifications under this Section shall be in
10 writing and witnessed by 2 competent adults who are not the
11 gestational surrogate, gestational surrogate's spouse, if any,
12 or an intended parent. Certifications shall be on forms
13 prescribed by the Illinois Department of Public Health and
14 shall be executed prior to the birth of the child. All
15 certifications shall be provided, prior to the birth of the
16 child, to both the hospital where the gestational surrogate
17 anticipates the delivery will occur and to the Illinois
18 Department of Public Health.

19 (c) Parentage established in accordance with this Section
20 has the full force and effect of a judgment entered under this
21 Act.

22 (d) The Illinois Department of Health shall adopt rules to
23 implement this Section.

24 (750 ILCS 40/Act rep.)

25 Section 10. The Illinois Parentage Act is repealed.